

REMARKS

The Office Action objects to the Title and Abstract. A new Title and Abstract have been provided above, and this objection can be withdrawn.

Claims 1-4, 6, 7, 17-34, and 36-39 were rejected for obviousness over Bro in view of Chao. This rejection is respectfully traversed. Applicants submit the following Remarks in support of the patentability of the claims.

The inventors conceived of a revolutionary online coaching system, memorialized in the present claims, which, as is described in the accompanying declaration of one of the inventors, Margaret Moore, has formed the cornerstone of a successful and growing business whose methods have been lauded both by the many clients whose lives have been enriched by the coaching methods of the invention, and by experts in the coaching field.

According to the invention, interactive, Internet-based coaching is provided to a plurality of clients in a system in which each client is assigned one of multiple coaches who make recommendations to the client based on information received from the client about an ongoing concern of the client. Critical to the system is the ongoing relationship between coach and client: as the client progresses in dealing with his or her concern, the coach continually provides personalized feedback and revised recommendations based on the latest information received from the client. Coach/client interactions are scheduled, and conducted in real time.

Non-obviousness

Neither Bro nor Chao, individually or combined, teaches or suggests the invention of claim 1, or of the claims which depend from claim 1. Before specifically pointing out the differences between the teachings of the references and the claims, some general comments on the fundamental distinctions between the invention and Bro are warranted.

At the heart of the invention is the provision of one-on-one, real-time coaching, by coaches who respond to input, information generated in the past and during the coaching sessions from the clients, each of whom has been assigned one of a group of coaches. The coaches are able to help clients effectively in part because they have access to resources, such as a training manual and a common Web platform. The recommendations coaches provide to clients, while based on common, shared systems and training, are personalized and devised by each particular coach.

Bro, in contrast, describes a system in which the trainers or other professionals who interact with clients provide absolutely no personalized feedback or sets of recommendations to clients; everything that is conveyed to clients is in the form of pre-recorded, canned “messages.” Indeed, this is clearly the whole point of the Bro system: the use of recorded messages, and only recorded messages, allows for perfectly rigid standardization, with no room for creative interplay between coach and client, and indeed no statements at all made to the client by the professional, oral, written, or otherwise.

The particulars of the office Action will now be addressed.

In rejecting claim 1 for obviousness over Bro and Chao, the Examiner states that Bro, like claim 1, provides multiple coaches (step a of claim 1), and (step b of claim 1) assigns a personal coach from those multiple coaches to each of a number of clients. This is incorrect. Bro does not provide coaches at all; Bro provides a turnkey system that can, presumably, be purchased by any professionals who wish to use it; it is apparent that users of the Bro system have their own clients, and that those clients are not assigned coaches or other professionals as part of the Bro system. The passage of Bro (col. 8, lines 35-45) referred to by the Examiner in connection with coach assignment in fact makes no mention of that subject: it discusses, rather, the completely unrelated topic of multiple phone lines that can be used by one physician wishing to “process” multiple clients in a 24-hour period.

The remaining steps of claim 1 involve receiving information from the client and having the coach devise and transmit to the client recommendations, in an iterative, repeated manner. Bro, in contrast, allows for no recommendations to be devised by the trainer or other professional; all the professional does in response to client information is provide to the client a “message” already prepared by Bro’s company; the message can be stored on a computer and accessed by the client at a time when the professional is not in

real-time contact with the client. (See, for example, col. 9, lines 56-65.) This system is the antithesis of the personalized, one-on-one coaching system of claim 1.

Chao does not remedy the deficiencies of Bro which, as is discussed above, are more extensive and fundamental than characterized in the Office Action. Chao, as the Examiner states, describes system for computer-aided matching of teachers and students, similar to thousands of systems in use by dating services. Chao has nothing to do with addressing ongoing concerns of clients; Chao's only purpose is the teaching of a subject, such as a foreign language. Thus, Chao is in a field, substantive teaching, which is completely unrelated to coaching, and some one in the coaching field would not look to Chao to fill in gaps in other coaching systems (such as Bro) to produce the claimed invention.

More fundamentally, combining Bro and Chao would not yield the invention of claim 1, because, *inter alia*, neither reference teaches or suggests having assigned coaches provide personalized recommendations to clients based on information received from clients, online, regarding ongoing concerns of the clients. Because of this basic failing of both references, combining them could not possibly result in the claimed method.

In addition, in this case there is compelling objective evidence of non-obviousness of the claimed invention. The Examiner's attention is directed to the accompanying declaration of one of the co-inventors, Margaret Moore, who founded a company, Wellcoaches Corporation, based on the present invention, and currently serves as the

company's President and Chief Executive Officer. (The Examiner is invited to visit the Wellcoaches website, wellcoaches.com.) As is described in detail in the Moore declaration, an investment of over one million dollars has been made in Wellcoaches, and that investment has paid off, bringing into being the world's first and only personalized Web-based coaching company of its kind, with employees, advisors, coaches, and satisfied coached clients, numbering in the hundreds. Wellcoaches has entered into a major alliance with the world's foremost fitness teaching organization, the American College of Sports Medicine, the nation's foremost research and medicine institution for sports medicine, which serves as the reference for federal guidelines for exercise and sports medicine. Wellcoaches has received praise and validation from every corner of the coaching, weight loss, and wellness worlds. Even if there were a *prima facie* case of obviousness (which there is not), it would be overcome by the objective indicia of non-obviousness detailed in the Moore declaration.

Because independent claim 1 is, for the reasons given above, patentable over the prior art, it necessarily follows that the claims that depend from claim, being narrower in scope, are patentable as well. Nonetheless, for completeness, the limitations of the dependent claims that are mentioned in the Office Action are addressed, as follows.

Claim 2 requires communication between client and coach over the Internet at scheduled times, with real-time dialog in chat format. Bro (col. 9) does not teach this feature; rather, Bro has "messages," not dialog, transmitted from the professional to the

client. Regarding claim 3, Bro does not teach telephone conversations between professional and client; quite the contrary, Bro (col. 8) uses the phone only as a tool to facilitate the transmittal of messages to the client. With respect to claim 4, reciting Internet-based video/audio conversation, Bro (col. 34) simply does not teach this feature; like the rest of the reference, the cited Bro passage describes computer-stored messages being played to the client (in this case, the client's own stored statements) rather than real-time statements from the professional.

Regarding claims 6, 7, and 17-33, the Examiner is correct that Bro is addressing a wide variety of issues (mostly health-related), and employs positive feedback. As is discussed above, these limitations are taught in the context of Bro's auto-message system, which has nothing whatever to do with the system of the invention.

Regarding claim 34, requiring that the client and coach view monitors with goals histories, and converse while they view the monitors, Bro (cols. 8, 10, and 22) does not teach this feature. In fact, Bro teaches away from the invention of claim 34; cited col. 10, lines 55-65, for example, describes a system in which the client and professional are not viewing information on the screen at the same time, and are not conversing in any manner.

Regarding claims 36 and 37, wherein the client and professional see each other during coaching session, apart from the fact that Bro nowhere describes coaching sessions, there is no disclosure in col. 34 of this feature; that passage describes the client's

viewing of a computer-stored image, not of a live person. Regarding claims 38 and 39, it is irrelevant that in the Bro system the client and professional do not see each other; they are not conversing at all.

Claims 5, 9, 10, 15, 16, and 35 were rejected for obviousness over Bro, Chao, and Maurille. This rejection should be withdrawn. Although it is true that further limitations in those claims are found in the Maurille reference, combining Maurille with Bro and Chao would not yield the inventions of any of these claims, because, as is described above, Bro and Chao together cannot yield the invention of the independent claim, claim 1, from which these claims depend. The same is true for the rejection of dependent claims 8 and 11-14 over Bro, Chao, and Ng; the fact that Ng discloses some of the limitations recited in these claims is irrelevant, because claim 1 from which they depend is not obvious from the combination of Bro and Chao.

In view of the above, it is respectfully submitted that all of the claims are in condition for allowance, and such action is requested.

Applicants note that the Form PTO 1449 that was submitted with an Information Disclosure Statement filed on September 11, 2000 has not been initialed and returned, and hereby request that it be initialed and returned with the next Office action.

Enclosed is a Petition to extend the period for replying to the Office action for three months, to and including September 10, 2004, and a check in payment of the required extension fee.

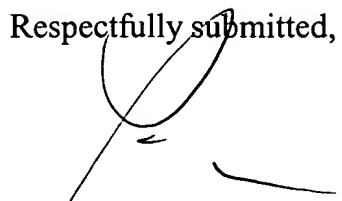
If there are any additional charges or any credits, please apply them to Deposit

Account No. 03-2095.

Respectfully submitted,

Date:

Sept. 10, 2004



Paul T. Clark
Reg. No. 30,162

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045